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	Decided on	:	30.03.2026
	Duration	:	Y M D 03 00 24

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, JATH

AT JATH

(Presided over by Prakash C. Bachhale)

R.C.C. No.70/2023
Exh. No.65

Prosecution

State of Maharashtra
Through the Police Station Officer,
Jath Police Station,
Tal. Jath, Dist. Sangli.

Versus

Accused

1. Sachin Yashwant Kolekar,
Age:-34 Yrs., Occu:- Transport,
R/o. Near old factory, Rampur,
Jath, Tal:-Jath.
2. Suhas Miraso Shivsharan,
Age:-35 Yrs., Occu:- Transport,
R/o. Near Margubai temple, Rampur,
Tal:-Jath, Dist:-Sangli.

Appearances

For Prosecution : A.P.P. Shri. A. V. Virkar.
Advocate for accused: Shri. A. K. Shinde.

Date of Offence	30.07.2022
Crime Register No.	444/2022
Date of FIR	30.07.2022
Date of Charge-sheet	03.03.2023
Date of Framing of Charges	17.09.2025
Date of Commencement of evidence	11.07.2024
Date on which judgment is reserved	28.02.2026
Date of the Judgment	30.03.2026
Date of the Sentencing Order, if any	----

Rank of the Accused	Name of Accused	Date of Arrest	Date of Released on Bail	Offences charged with	Whether acquitted or convicted	Sentence Imposed	Period of Detention undergone during Trial for purpose of Sec.428, Cr.P.C.
1.	Sachin Yashwant Kolekar	01.08.2022	11.08.2022	U/S.457, 380, 511, 461, 427 r.w. 34 of I.P.C.	Acquitted	----	---
2.	Suhas Miraso Shivsharan	01.08.2022	11.08.2022	U/S.457, 380, 511, 461, 427 r.w. 34 of I.P.C.	Acquitted	----	---

LIST OF PROSECUTION WITNESSES

Rank	Witnesses Name	Exh. No.	Nature Of Evidence
1	Shital Lahu Koparde	21	Informant
2	Ramu Bhimanna Mandale	25	Witness
3	Bajirao Balu Khandekar	26	Witness
4	Satish Sukhdeo Surve	29	Memorandum Panch witness
5	Umesh Machhindra Patil	32	Seizure Panch witness
6	Akash Anil Waghmode	34	Seizure Panch witness
7	Hemant Ulhas Khade	36	Seizure Panch witness
8	Prashant Revgonda Biradar	41	Witness
9	Shantilal Mishrilal Oswal	42	Witness
10	Mahesh Balaso Gaikwad	44	I.O.
11	Rajaram Mahadeo Mule	52	Witness
12	Nagesh Maruti Kharat	53	Witness
13	Prashant Bhimrao Nishandar	57	Witness

LIST OF PROSECUTION EXHIBITS:

Sr. No	Exhibit No	Description
1	22	Vardi Jabab
2.	23	First Information Report
3.	27	Spot Panchanama

4.	30	Memorandum Panchanama dated 01.08.2022
5.	31	Seizure Panchanama
6.	45	Investigation order
7.	46	Memorandum Panchanama dated 02.08.2022
8.	47	Seizure Panchanama
9.	48 & 49	Certificate U/s.65(B) of Indian Evidence Act.
10.	50 & 59	Muddemal receipt
11.	54	Suggestion letter
12.	58	Bolero seizure panchanama

JUDGMENT
(Delivered on 30th March, 2025)

Accused Nos.1 and 2 have been prosecuted for the offence punishable under Section 457, 380, 511, 461, 427 r.w. Section 34 of the Indian Penal Code.

Brief facts of the prosecution's case are as under:

2. It is a case of prosecution that 63 ATM of various banks within the limits of Sangli district were under the care and maintenance of informant namely Shital Lahu Koparde. The ATM No.NA0595C1 of the Maharashtra Bank situated at Dafalapur, Tal:-Jath was under the

supervision of informant. The informant had appointed one Ravindra Shantappa Awati for the purpose of cleaning of said ATM. On 30.07.2022 at about 06.40 a.m., when the informant were present at his house, he received a phone call from Ravindra Shantappa Awati. Ravindra Awati told him that, when he was going to clean the above said ATM, he saw that the said ATM lying outside of the gate of Maharashtra bank. Upon this, the informant came on the spot at Dafalapur. He found the circumstances as told by Ravindra Awati. He found that, the ATM caused damage to its tin. The tin of ATM was bent. However, the cash was intact in it. Thereafter, the informant made call to his superior authority. Afterthat, Dhanpal Kamble, Ankush Narute, Jalindhar Ganechari were came on the spot. Hence, he lodged the complaint against unknown persons for the offence punishable under Section 457, 380, 511, 461, 427 r/w. Section 34 of I.P.C.

3. The investigation officer investigated the offence by recording the statements of witnesses, drawing the spot and seizure panchnama. Recorded the memorandum panchanama. After finding sufficient evidence, he filed a chargesheet against the accused in respect of offence punishable under section 457, 380, 511, 461, 427 r/w. Section 34 of I.P.C.

4. The charge was framed against the accused Nos.1 and 2 for an offence punishable under section 457, 380, 511, 461, 427 of the Indian Penal Code vide Exh.No.17. The charge was read over and explained to the accused persons in their vernacular. They pleaded not guilty and claimed to be tried. No evidence adduced on the side of defence.

5. In order to substantiate the case, the prosecution has examined in all 13 witnesses i.e. informant Shital Lahu Koparde as PW.1 at Exh.No.21, witness Ramu Bhimanna Mandale as PW.2 at Exh.No.25,

witness Bajirao Balu Khandekar as PW.3 at Exh.No.26, memorandum panch witness Satish Sukhdeo Surve as PW.4 at Exh.No.29, seizure panch witness Umesh Machhindra Patil, Akash Anil Waghmode and Hemant Ulhas Khade as PW.5, 6 and 7 at Exh.32, 34 and 36 respectively, witness Prashant Regvonda Biradar as PW.8 at Exh.41, witness Shantilal Mishrilal Oswal as PW.9 at Exh.42, I.O. Mahesh Balaso Gaikwad as PW.10 at Exh.44, witness Rajaram Mahadeo Mule as PW.11 at Exh.52, witness Nagesh Maruti Kharat as PW.12 at Exh.53 and witness Prashant Bhimrao Nishandar as PW.13 at Exh.57. The prosecution has also relied upon the documents viz. Vardi Jabab at Exh.No.22, First information report at Exh.23, spot panchanama at Exh.27, memorandum panchanama dated 01.08.2022 at Exh.30, seizure panchanama at Exh.31, investigation order at Exh.45, memorandum panchanama dated 02.08.2022 at Exh.46, seizure panchanama at Exh.47, certificate u/s. 65(B) of Indian Evidence Act at Exh.48 and 49, muddemal receipts at Exh.50 and 59, suggestion letter at Exh.54 and vehicle seizure panchanama at Exh.58.

6. I have heard learned A.P.P. for the State and learned advocate for the accused persons. The statement of accused persons under Section 313 of the Code of Criminal Procedure are recorded vide Exh.Nos.62 and 63 respectively. The defence of accused persons is of the total denial.

7. In view of facts and evidence available on record following points arise for my determination. I record my findings thereon along with reasons given below.

Sr. No.	Points	Findings
1.	Does prosecution prove that, on 30.07.2022 prior to 06.40 a.m. in the ATM of Maharashtra Bank situated at Dafalapur, Tal:-Jath, in	

	furtherance of common intention, committed the offence of lurking house-trespass by entering into the A.T.M. of Maharashtra Bank in possession of informant and remained in possession thereof and thereby committed an offence punishable under Section 457 r.w. 34 of IPC?	No.
2.	Does prosecution prove that on the above mentioned date, time and place, in furtherance of common intention, committed theft in a A.T.M. of Maharashtra bank used for custody of property, and thereby committed an offence punishable under Section 380 r/w 34 of IPC?	No.
3.	Does prosecution prove that on the above mentioned date, time and place, in furtherance of common intention, attempted to commit the offence of theft and in such attempt did a certain act towards the commission of the said offence of theft and and thereby committed an offence punishable under Section 511 r/w. 34 of I.P.C?	No.
4.	Does prosecution prove that on the above mentioned date, time and place, in furtherance of common intention, dishonestly broke it open a closed receptacle which contained or which you believed to contain certain property i.e. cash, and hereby committed an offence punishable under Section 461 r/w. Section 34 of I.P.C?	No.
5.	Does prosecution prove that on the above mentioned date, time and place, in furtherance of common intention, committed mischief and	No.

	thereby caused damage to the A.T.M. of Maharashtra bank and that you thereby committed an offence punishable under Section 427 r/w. Section 34 of I.P.C?	
6.	What order?	Accused persons are acquitted.

REASONS

As to point Nos.1 to 5 :-

8. The evidence on these points is common, hence, I have taken them together for discussion in order to avoiding repetition.

9. At the outset, it is important to mention that there is no eye witness of the alleged incident and it is a case of circumstantial evidence. Hence, the prosecution has to put on record strong circumstantial evidence against the accused, in such a fashion that, it shall not leave any doubt as to the innocence of the accused persons.

10. Turning to the prosecution evidence, to bring home guilt of accused persons the prosecution has examined in all total 13 witnesses. Out of which PW-1 Shital Lahu Koparde is a informant. He deposed at Exh.21 that, he was providing the service of all ATM within the limits of Sangli district. He provides the service to the ATM of Maharashtra bank situated at Dafalapur also. On 30.06.222 at about 06.40 a.m., he received a phone call from sweeper namely Ravindra Shantappa Awati. He told that, when he went to clean the ATM., he found that, the said ATM lying outside of the bank. Therefore, he proceeded towards Dafalapur. When he reached at the spot, he found as stated by the Ravindra Awati. He further found

that, the treasury of ATM was good in condition and cash was also intact in it. The ATM was damaged. He informed the said incident to his superior authority. Therefore, he lodged complaint with the police station against unknown persons. He acknowledged and proved the complaint and report at Exh.22 and 23 respectively.

11. In the cross-examination, he admitted that no documents have been given showing that he was working in the company namely Electronic Payment and Services as well as serving as care and maintenance officer with the ATM of bank of Maharashtra situated at Dafalapur. He further admitted that, he has not given any documents in respect of ATM No.NA0595-C1 about its existence with the Bank of Maharashtra.

12. Further, PW.2 Ramu Mandale stated that, he was having Bolero vehicle bearing registration No.5316. In its both side, the text “शेतकरी हा पुढील वर्षी श्रीमंत असतो” was written. The accused persons have took out his vehicle on saying that, their relatives are ill. However, he could not tell the date or the year of take out the vehicle. The police had recorded his statement. In the cross-examination, he admitted that, the owner of seized vehicle is one Maruti Babu Malame who is his son-in-law. He further admitted that, due to old in age, he could not see properly and is having hearing impaired. He could not tell the registration number of seized vehicle.

13. In order to prove spot panchanama, prosecution examined PW.3 at Exh.No.26, he deposed that on 30.07.2022 he was serving at Bank of Maharashtra. On that day, the police asked branch Manager to provide witness for carrying out spot panchanama. Upon the say of Branch Manager, he went to the spot of incident. The spot was shwon by

informant. The ATM was lying at the road in front of Swati collection 15 to 20 feet away from the room of ATM. The police has carried out the spot panchanama in his presence. Thus, evidence of PW-3 has duly proved the spot panchanama which is at Exh.27.

14. In the cross-examination, he has stated the specification of ATM. He admitted that, the spot of incident is crowded place. He specifically admitted that, he could not find any sign marks of dragging of ATM upon the tile, soil and kutch(कट्टा) in front of the room of ATM. He further specifically admitted that, the police have not followed any procedure of seizure. Police have not clicked any photos in his presence.

15. PW.4 Satish Surve deposed that, upon the say of his superior authority, he agreed to act as seizure panch. He along with one Pundalik Kadam went to Jath. At that time, they were present along with police and accused No.1 Sachin Kolekar. He has specifically deposed that the accused Sachin Kolekar stated before the police and them that he would show the articles. Accordingly, the memorandum panchanama(Exh.30) was written in his presence and the said panchanama was signed by him along with Pundalik Kadam and the accused Sachin Kolekar. He, another panch Pundalik Kadam, accused and police staff moved towards Kanthi road in Government Jeep. When they reached the spot, accused had given black colour iron wire/rope and jacket in their presence. Police have seized the said articles and prepared memorandum panchanama(Exh.31). Thus, the memorandum panchanama (Exh.30) and recovery panchanama (Exh.31) are duly proved by this witness. Nothing useful to the accused came on record in the cross-examination.

16. PW.5 Umesh Machhindra Patil, PW.6 Akash Anil Waghmode and PW.7 Hemant Ulhas Khade are memorandum and seizure panch. They have not supported the prosecution. They only admitted their signature on panchnama and denied its contents. Ld. APP with the leave of Court, asked leading questions to these panch witnesses. But, nothing material could have been brought on record.

17. Further, the prosecution has examined Prashant Biradar as PW.8 below Exh.41. He deposed that, he run the shop by style and name as 'Sarvesh Automobile' at Vijapur road, Jath. He used to sell the spare parts in relation to two wheeler vehicle and accordingly, issue the bills to the buyers as per their requirement. Police came in his shop. In the cross-examination, he stated that, police have not asked for the documents in relation to his shop and accordingly, he did not provide the same.

18. PW.9 Shantilal Oswal deposed that, he run a shop in the name of 'B. A. Oswal' at Mangalwar Peth, Jath. He used to sell the clothing material through his shop. Numerous customers used to purchase the clothes and cap from his shop. On 29.07.2022, one person came in his shop for buying cap and accordingly, he purchased the same. However, he did not recognize him. He could not recognize the accused before the Court who was bought the cap from his shop. He specifically stated that, his shop is under C.C.T.V. surveillance. In his cross-examination, he admitted that, numerous people came in his shop for purchasing the clothes and therefore, he could not tell exactly what type of clothes purchased by whom. He further stated that, the police have not called him for identity parade.

19. PW.10 Mahesh Balaso Gaikwad is Investigating Officer. He stated that he investigated the present crime as per the order of his superior authority. He visited the site of incident and prepared spot panchnama (Exh.27). At the spot, he revealed that, the ATM was lying 30 to 35 feet from its original place. The wire connection of C.C.T.V. was cut down. The hook of ATM was also broken down. He further deposed that, on 01.08.2022, he arrested the accused persons after producing them by the Local Crime Branch, Sangli. He further deposed about the recovery of wire and jacket. So also, he obtained CCTV footage of the shop from which the accused persons had purchased the colour spray and monkey cap. Furthermore, he recorded the memorandum panchanama (Exh.46). He has obtained the CCTV footage of spot incident along with the certificate required under Section 65(b) of Indian Evidence Act is at Exh.47 and 48. He recorded the statements of witnesses. In his investigation it revealed that accused committed the theft of ATM. Hence, he filed charge-sheet against the accused. Thus, Investigation Officer has followed due procedure in respect of recovery panchanama.

20. In the cross-examination, he admitted that, the spot panchanama Exh.27 does not mention about the sign marks of dragging of ATM upon the tyle, soil and kutch(कच्चा) in front of the room of ATM. So also, he further admitted that, he did not found any sign marks as mentioned above. He further admitted that, the spot panchanama(Exh.27) does not mention the fact about broken out the hooks of ATM. He specifically admitted that, the monkey cap and colour spray have not been recovered which was used for the commission of offence. He specifically admitted that, no CCTV footage are obtained during the investigation.

Moreover, he admitted that, he has not recovered DVR in respect of CCTV footage.

21. PW.11 Rajaram Mule stated that, in the year 2017, he was serving in Local Crime Branch, Sangli. On 30.07.2022, he was serving in Local Crime Branch, Sangli. At that time, he received information about breaking of ATM of Bank of Maharashtra situated at Dafalapur. Upon receiving the above information, he along with the API Nishandar went to spot of incident. They obtained CCTV footage in relation to spot of incident. Upon seeing the CCTV footage, two persons and one Bolero vehicle came to be seen in it. At the driver side of said Bolero the text seen to be written as 'पुढील वर्षी शेतकरी श्रीमंत असतो'. A.P.I. Nishandar realised that, the vehicle which was seen in the CCTV footage is travelling at stony bridge, Mutton market road, Jath. The registration number of said vehicle was MH-09-5316. He found the said vehicle along with the accused No.2. Upon inquiry, the accused No.2 agreed that, he along with accused No.1 tried to break the ATM. He arrested the accused persons. In the cross-examination, he admitted that, the CCTV footage in respect of local shops adjacent to spot of incident has not been obtained by him. He specifically admitted that, it is impossible for two persons to move ATM.

22. PW.12 Nagesh Kharat has deposed that, on 30.07.2022, he was attached with Local Crime Branch. Upon receiving the information about the incident, he along with API Nishandar, Mule and Nalawde went to the spot of incident at Dafalapur. He found there that, ATM lying out of the ATM room. In the CCTV footage, two persons and one Bolero vehicle came to be seen. For the search of said Bolero, they reached at Mutton market, Jath. They caught accused No.2 there, who was seen in the CCTV footage on the Bolero vehicle. Upon inquiry, accused No.2 told that, he

along with accused No.1 committed the theft of ATM situated at Dafalapur. Thereafter, he arrested accused Nos.1 and 2 and brought into Jath Police Station. Both the accused confessed the offence before him. In the cross-examination, he admitted that, the glass of ATM was broken out. He further admitted that, the CCTV camera installed into the ATM room was good in condition. He specifically admitted that, no any harm was caused to the ATM.

23. PW.13 Prashant Nishandar deposed that, at the time of incident, he was attached with Crime Branch, Sangli as A.P.I. The incident was occurred on 30.07.2022 at Dafalapur-Jath road at fine morning. He seized the vehicle which was used for the commission of offence. So also, he obtained some CCTV footage. He recorded the statement of both accused persons. Thereafter, he handed over the seized vehicle to the Jath police station vide muddemal receipt (Exh.59). During his cross-examination, he specifically admitted that, he has not obtained any CCTV footage. He also admitted that, he has not given any report in respect of CCTV footage.

24. As per the deposition of PW.10 Mahesh, the ATM was lying 30 to 35 feet from its original place, whereas PW.3 deposed that the ATM was lying at the road in front of Swati collection 15 to 20 feet away from the room of ATM. Further, PW.3 in his cross examination admitted that, he could not found any sign marks of dragging of ATM upon the tyle, soil and kutch(कट्टा) in front of the room of ATM. So also, PW.10 Mahesh in his cross-examination also admitted that, the spot panchanama Exh.27 does not mention about the sign marks of dragging of ATM upon the tyle, soil and kutch(कट्टा) in front of the room of ATM. So also, he further admitted that, he did not found any sign marks as mentioned above. If it is the case

of prosecution that, the accused were trying to commit the theft of ATM by dragging the same from ATM room, therefore, the sign marks of dragging the ATM appears to be seen on the spot of incident. However, as per the admission of PW.3 and PW.10, there is no sign marks on the tyle, soil and kutch. Moreover, upon perusal the spot panchanama (Exh.27), it does not mention about the sign marks of dragging of ATM upon the tyle, soil and kutch(कट्टा). Therefore, it creates doubt which fatal to the prosecution case.

25. As per the prosecution case, the accused persons committed the offence of lurking house-trespass by entering into the ATM of Maharashtra Bank and tried to commit theft by dishonestly broke it open and committed mischief caused damage to the said ATM. In this regard, the prosecution has filed on record the letter issued by Finger Print Bureau, C.I.D., M.S., Pune. However, upon perusal of said letter it can be seen that, Deputy Director of Finger Print Bureau, C.I.D., M.S., Pune opined that, the finger print developed on the “Fire Alarm Sensor” does not disclose sufficient number of ridge details, hence, it is unfit for comparison and any practical utility. However, after giving sufficient opportunity, the prosecution has not taken any steps in this regard. Further, the prosecution has filed on record the report of Dog Squad. Upon perusal of said report, it can be said that, the dog breed ‘Kupar’ could not find out the way of accused persons. Therefore, these documents would not be helpful to the prosecution case.

26. PW.10 Mahesh Gaikwad, PW.11 Rajaram Mule and PW.13 Prashant Nishandar have specifically admitted in their cross-examination that, no any CCTV footage obtained by them. PW.10 further admitted that, he has not recovered any DVR in respect of CCTV footage. It is important to mention that, no any eye witness in the present case. As discussed above,

the case is totally dependent upon the circumstantial evidence. In this respect, the prosecution is bound to produce evidence i.e. CCTV footage. However, prosecution failed to produce on record the same. Therefore, without having any CCTV footage on record, it cannot be said that, the accused persons have made attempt to commit the offence of theft.

27. PW.13 deposed that, he has recorded the statements of accused persons and same are filed on record. Those statements of accused persons are of confessional in nature and could not be used against them. So far as recovery of monkey cap and iron rope from the possession of accused No.1 vide memorandum panchanama Exh.46 is concerned, memorandum panchanama Exh.46 is duly proved by the prosecution. PW.11, PW.12 and PW.13 are police personnels of Local Crime Branch, Sangli who firstly visited the spot of incident. PW.11 and PW.12 deposed that, on seeing CCTV footage adjacent to spot of incident, they seen in CCTV footage two suspected persons and Bolero vehicle. PW.13 deposed that, on the basis of CCTV footage, he arrested accused No.2 and seized the vehicle. However, PW.11, PW.12 and PW.13 in their cross-examination admitted that they have not seized the CCTV footage on the basis of which they started investigation. So also, they have not identified both accused persons to whom they were seen into CCTV footage. Thus, there is no cogent and reliable evidence brought by the prosecution which prove the presence of both accused persons at the place of incidence.

28. While dealing with the cases based on circumstantial evidence, circumstances from which conclusion of guilt is to be drawn should in the first instance be fully established, and all the facts so established should also be consistent with only one hypothesis i.e. the guilt of accused. Thus, the burden was heavily upon the prosecution to prove that the chain of

event is complete and not to leave any doubt in the mind of Court. All circumstances must lead to the conclusion that accused persons are the only one who have committed crime and none else. In view of the available circumstantial evidence on record and upon perusal of evidence of all witnesses, it is found that the chain is not completed/established by the prosecution in this case. Thus, the prosecution has failed to prove the guilt of the accused persons beyond all reasonable doubts. So also, the prosecution has also failed to prove the presence of accused persons on the spot of incident. Hence, I answer point Nos.1 to 5 in the negative and in answer to point No.6, I proceed to pass the following order.

ORDER

1. Accused No.1 Sachin Yashwant Kolekar and accused No.2 Suhas Miraso Shivsharan are hereby acquitted of the offence punishable under Section 457, 380, 511, 461, 427 of Indian Penal Code, vide Section 248(1) of the Code of Criminal Procedure.
2. The seized Mahindra Bolero bearing registration No.MH-09-DM-5316 is already handed over to one Maruti Babu Malame. He shall retain the same. The indemnity bond in respect of vehicle be cancelled after appeal period is over.
3. The seized iron rope/wire and jacket being worthless, be disposed of after appeal period is over.
4. The seized pen drives be returned to Police Inspector, Jath by keeping its backup, after appeal period is over.
5. Their bail bonds stand cancelled.

6. Accused Nos.1 and 2 to furnish P.B. of Rs.15,000/- each as per section 437-A of the Code of Criminal Procedure,1973.

(Dictated and pronounced in open Court)

Jath.
Date:-30.03.2026

(Prakash C. Bachhale)
Judicial Magistrate F.C., Jath.
Dist-Sangli.

CERTIFICATE

I affirm that the contents of this PDF file are same as per original.

Name of Stenographer :- R. B. Samalewale
Name of the Court :- Shri. Prakash C. Bachhale,
Civil Judge Jr. Dn., Jath.
Date of decision :- 30.03.2026
Order signed by P.O. on :- 02.04.2026
Order uploaded on :- 04.04.2026